486.

SUPREME COURT OF THE UNITED STATES.

No. 111.

THE UNITED STATES, APPELLANTS,

vs.

FRANCISCO BRANCH.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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GIDEON, Print.

Transcript of the proceedings in case No. 162—Francisco Branch, claimant, vs. The United States, defendant—for the place named "Arroyo Grande."

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this sixth day of April, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Francisco Branch for the place named "Arroyo Grande" was presented, and ordered to be filed and docketed with No. 162, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *September 9th*, 1852.

In case No. 162—Francisco Branch, for the place named "Arroyo Grande"—the deposition of Pablo de la Guerra, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 5 of this Transcript.)

LOS ANGELES, *October 8th*, 1852.

In the same case, the deposition of William R. Hutton, a witness in behalf of the claimant, taken before Commissioner James Wilson, was filed.

(Vide page 6 of this Transcript.)

SAN FRANCISCO, *January 15th*, 1853.

In the same case, the deposition of N. A. Den, a witness in behalf of the claimant, taken before Commissioner Harry J. Thornton, was filed.

(Vide page 4th of this Transcript.)

SAN FRANCISCO, *September 11th*, 1853.

Case No. 162 called, submitted on briefs, and taken under advisement by the board.

SAN FRANCISCO, *January 17th*, 1854.

In the same case, Commissioner Alpheus Felch delivered the opinion of the board confirming the claim.

(Vide page 32 of this Transcript.)

To the honorable Commissioners to settle private land claims in California.

The petitioner, Francisco Branch, respectfully shows: That in the month of April, A. D. 1841, Zeferino Carlon applied through the proper authorities for the tract of land called "Arroyo Grande," and, that on the 25th day of April, A. D. 1842, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to the said Zeferino Carlon the aforesaid tract of land called "Arroyo Grande," or "San Raymon," situate in the then jurisdiction of Santa Barbara, and the now county San Luis Obispo, containing one square league with the boundaries described in the grant and corresponding map, all of which is shown in the espediente, a certified copy of which is submitted herewith, marked "A," with a translation marked "B;" and he also submits herewith a copy of the formal title marked "C," with a translation marked "D."

And the petitioner further shows, that on the 6th day of June, A. D. 1842, the said tract of land was surveyed, and the juridical possession of it given to the said Zeferino Carlon by the proper authority, a copy of which act of possession is submitted herewith marked E, with a translation marked F.

That on the 2d day of April, A. D. 1843, the said Zeferino Carlon sold and conveyed the said tract of land to the petitioner, a copy of which conveyance is submitted herewith, marked G, with a translation marked H.

That since the year 1841, the said Carlon and the petitioner have been, and the petitioner now is, in the quiet, peaceful, and undisputed possession and occupancy of the said land. That he knows of no conflicting claim.

That the said land has not been surveyed by the surveyor general of the United States, but that it was surveyed, and its boundaries marked out, at the time of the giving juridical possession of it.

That he relies for confirmation of title upon the original papers, copies of which are submitted herewith, upon the records and minutes in the archives now in the charge of the surveyor general, and upon such other and further proofs as he may be advised are necessary.

Wherefore, he prays the commissioner to confirm to him the said tract of land.

By his attorneys:

HALLECK, PEACHY, & BILLINGS.

Filed in office, April 6th, 1852.

GEO. FISHER, *Sec'ry.*

Deposition of N. A. Den.

SAN FRANCISCO, *Jan'y 15th*, 1853.

On this day, before Com'r Harry J. Thornton, came Nicholas A. Den, a witness in behalf of the claimant, petition No. 162, Francisco Branch, and was duly sworn, his evidence being given in English.

My name is Nicholas A. Den; my age is 40 years; I reside in Santa Barbara, and have lived in California 16 years.

I know the rancho called "Arroyo Grande" claimed by Francisco Branch; it is in San Luis, Obispo county. I know that Branch has occupied this land since 1842, and he still occupies it with his cattle and horses.

He has lived on it; had a house on it, and cultivated a part of the land.

N. A. DEN.

U. S. law agent present.

Sworn to and subscribed before me this 13th of January, 1853.

HARRY J. THORNTON, *Com'r, &c.*

Filed in office, Jan'y 15th, 1853.

GEO. FISHER,
Secretary.

Deposition of P. de la Guerra.

OFFICE OF THE BOARD OF COMMISSIONERS OF CALIFORNIA LAND CLAIMS, LOS ANGELES, *Sept. 9th*, 1852.

On this day, before Harry J. Thornton, one of the commissioners for ascertaining and settling private land claims in California, came Pablo de la Guerra, a witness produced in behalf of the claimant, whose petition is No. 162 on the docket of the board, and was duly sworn, his evidence being given in English.

The U. S. law agent attended.

1st question. What is your name, age, and place of residence?

Ans. My name is Pablo de la Guerra; my age is about 32 years; I reside in Santa Barbara, and am a native of California.

2d question. Examine the documents marked No. 4, and attached to this deposition, and say if the signatures are genuine?

Ans. I am acquainted with the signatures of Juan B. Alvarado, Manuel Jimeno, Joaquin Carrillo, Joaquin de la Guerra, and José Maria Covarrubias; their signatures to these documents are genuine, and the documents themselves are to the best of my belief genuine.

PABLO DE LA GUERRA.

U. S. law agent present.

Sworn and subscribed before me this 9th of Sept., 1852.

HARRY J. THORNTON,
Commissioner, &c.

Filed in office Sept. 9th, 1852.

GEO. FISHER, *Sec'y.*

Deposition of Wm. R. Hutton.

OFFICE OF THE U. S. LAND COMMISSION,
LOS ANGELES, *Oct. 8th*, 1852.

On this day, before James Wilson, one of the commissioners for ascertaining and settling private land claims in California, came Wm. R. Hutton, a witness produced in behalf of the claimant, Francisco Branch, whose petition is No. 162 on the docket of the board, and was duly sworn, his evidence being given in English.

The law agent, by R. Greenhow, esq., was present, and did not object.

1st question. What is your name, age, and place of residence?

Answer. My name is William R. Hutton; my age is 26 years, and I have resided in California since the month of April, 1847.

2d question. Say what you know about the occupation of the rancho of Arroyo Grande, or San Roman, claimed by Francisco Branch.

Answer. I know the rancho of Arroyo Grande, or San Roman; it is situated in the county of San Luis Obispo; I first knew this rancho in 1851; it was then occupied by Francisco Branch with cattle and horses; there were the ruins of two houses; he lived with his family on an adjacent rancho; and he or his servants visited it almost every day, taking care of the stock there; I think he had on it as many as seven or eight hundred cattle and horses. WM. R. HUTTON.

Oct. 8, 1852, subscribed and sworn to before me.

JAMES WILSON, *Commissioner.*

Filed in office Oct. 8th, 1852. GEO. FISHER, *Sec'y.*

Espediente promovido por Ciudo. Zeferino Carlon en solicitud del paraje conocido con el nombre de Arroyo Grande.

S'or Prefecto del 2d Distrito:

El Ciudadano Zeferino Carlon, natural del puerto de Sta. Barbara y avecindado en dicho, ante V. S. con la mejor sumision y como mejor lugar en derecho espone; que en virtud de tener un corte numero de ganado y bestias cabares, y estas el estan perdiendo las mejores estravido a causa de no tena un lugar en donde reducirlos se ve en la estrema necesidad de implorar el patrocino de V. S. á fin de que se le conceda el paraje del Arroyo Grande, el cual se halla valdio y es lindero perteniciente á la ex. mision de la Purisima y es colindante á los ranchos de los estrangeros Francisco Branch y Isaac Espaque, dicho lugar lo manifiesta el diseño ql. acompaña por tanto á V. S. suplico con en caredicimiento el que le de el cuyo necesario á esta su solicitud, abendo de que es un pabre hombu cargado de familia, y el haber sido un servicio en el departamento, dispensandole el que halla esta en papel comun por no haberlo del sello que corresponde, recibiendo de la notaria bondad de V. S. favor, gracia y merced.

ZEFERINO CAVILLO.

Santa Barbara, Abril 23, de 1845.

[Seal.] ANGES., *Mayo* 6, *de* 1841.

Remitase la presente instancia y diseño que acompaña al s'or juez de 1o. instancia del partido de Santa Barbara, por que informe sobre su contenido y circunstancias que del go. representa y en seguida pasará el espediente al mayordomo ó padro ministerio de la mision de la Purisima, pa. que por parte de dho. establicimiento el ql. corresponda y concluido vuelva á esta prefectura para que sus ultimas tramites.

ARGUELLO.

NARCISO BOTELLO, *Secretario.*

[*For map see original, page* 9.]

SANTA BARBARA, *Mayo* 10, *de* 1841.

Pase la presente instancia al mayordomo de la mision de la Purisima, pr. que proda en el informe q'l cua conveniente respeto del paraje que solicita el interesado y pueda para las fines que convengan.

JOAQUIN CARRILLO,
FERNANDO PICO.

El interesado en esta instancia tiene bienes conocidos y buena conducta por lo que cico es alodor a que se le conseda el terreno que pretende, el cual es valdio y no pertenece á la mision de Purisima, ni á ninguna otra corporacion, ni particular en cuanto pueda informar el desequio de la justicia.

Sta. Barbara, Junio 22d, de 1841. FERNANDO PICO.

Ex'mo S'or:

Mandado practicar las informes correspondientes á serca de la solicitud que trae el ciud'no Seferino Carlos, del paraje Arroyo Grande, resulta valdio sin ocupacion ninguna ni pertenece á corporacion ni particular, y teniendo el interesado bienes con que cabrirlo es de paracer esta prefectura puede acederle á esta solicitud si V. E. considerase pr. conveniente.

Angeles, Julio 7o, de 1841. S. ARQUELLO,
NARCISO BOTELLO, *Srio.*

MONTEREY, 25 *de Abril, de* 1842.

Vista la peticion con que da principio esto espediente el informe del encargado del establicimiento de la Purisima y del que entendio el juez de paz de Sta. Barbara y el prefecto del 2o distrito, en todo lo demas que se tuvo presente y ver convino de conformidad con las leyes y reglamentos de la materia. Declaro al ciud'no Zeferino Carlon dueño en propriedad del paraje conocido con el nombre de Arroyo Grande, colindante con los ranchos de Sta. Manuela y Guasna, con la sierra y con el terreno de San Luis Obispo, librese el correspondiente despacho tomise razon en el libro respectivo y entregase al interesado.

El ex'mo s'or gobernador Don Juan B. Alvarado, asi lo mandó, decretó y firmo, de que doy fée.

ESTABLICIMIENTO DE LA PURIS'MA.

Devuelva A. V. las adjuntas espedientes el uno con el informe respectivo, y el otro sin informar por no estar comprendido en los terrenos de esta mision. Dios y Libertad.

Purisima, y Junio 19, de 1841.

JOSE MA. VALENZUELA.

ANGELES, *Julio* 7, *de* 1841.

Agregase al espediente respectivo.

ARGUILLO.

S'OR JUES DE PAZ, *del partido de Sta. Barbara.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such, having in my office, and under my charge and custody, a portion of the archives of the former Spanish and Mexican Territory, or department of Upper California, do hereby certify, that the seven preceding and hereunto annexed pages of tracing paper numbered one to seven inclusive, and each of which is verified by my initials (S. D. K.), exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of San Francisco, Cala., this 26th day of March, 1852.

SAMUEL D. KING,
Surveyor Gen'l Cala.

Filed in office, April 6th, 1852.

GEO. FISHER, *Secretary.*

Translation of Espediente.

Third stamp, Two reales.

Provisionally authorized by the maratime custom-house of the port of Monterey, in the department of the Californias, for the years 1840 and 1841.

(Signed) ANTONIO MARIA OSIO.
(Signed) ALVARADO.

Re-authorized by the same for the year 1842.

(Signed) ANTONIO MARIA OSIO.
(Signed) ALVARADO.

[Maritime Custom-house of Monterey.]

To the Prefect of the 2d district:

Citizen Zafereinno Carlon, born in the port of Santa Barbara, and a citizen of that place, before your honor appears with the greatest submission, and with due respect representation makes, that in virtue of owning a small number of large cattle and other animals, which often

stray away because he has no place to tame them, he sees himself in the extreme necessity of begging the patronage of your honor, in order that there may be granted to him the place called "Arroyo Grande," which is vacant, and which adjoins on the ex-mission of La Purisima, and is bounded by the ranchos of Francisco Branch and Isaac Sparks, said place being marked out on the accompanying map.

Wherefore he sincerely begs your honor that you may take the necessary steps for forwarding his petition, bearing in mind that he is a poor man, burthened with a large family, and that he has rendered service in the department. Excusing him for writing on common paper, there being none of the proper stamp, and receiving it with your honor's well-known kindness, favor, goodness and grace.

Santa Barbara, April 29th, 1841.

(Signed) ZEFERINO CARLON.

ANGELES, *May 6th*, 1841.

This petition and accompanying map are transmitted to the judge of the 1st instance of the partido of Santa Barbara, in order that he may report on its contents and the circumstances represented; and he will then pass the espediente to the mayordomo and father minister of the mission of La Purisima, in order to obtain the corresponding information from said establishment. And this being done he will return it to this prefecture for its final action.

(Signed) ARGUELLO,
(Signed) NARCISO BOTELLO,
Secretary.

SANTA BARBARA, *May 10th*, 1841.

Pass this to the mayordomo of the mission of La Purisima, that it may receive such report as he may deem proper to make respecting the place asked for by the petitioner, and return it for such purposes as may be required.

(Signed) FERNANDO PICO.
(Signed) RAMUNDO CARRILLO,
Secretary.

ESTABLISHMENT OF LA PURISIMA,
ANGELES, *July 7th*, 1841.

Let this be. I return to you the annexed expediente, the annexed to the one with the proper report, and the other respective expediente without report, as the land does not belong to this mission. God and liberty.

La Purisima, June 19, 1841.

(Signed) JOSE M'A VALENZUELA.
(Signed) ARGUELLO.

To the Justice of the Peace of the partido of Santa Barbara:

The petitioner is known to possess some property, and his conduct is good. Wherefore, I think the land which he asks for should be

granted to him, because it is vacant and does not belong to the mission of La Purisima, nor to any other corporation or private individual. This is what I can report in conformity to justice.

(Signed) FERNANDO PICO.

Santa Barbara, June 22d, 1841.

Excellent Sir:

Having directed the corresponding reports to be made respecting the petition of citizen Zeferino Carlon, for the place called Arroyo Grande, it results that the land is vacant, without any occupant, that it belongs to no private individual or corporation, that the petitioner has property wherewith to occupy it; therefore, it appears to this prefecture that it may be granted to the petitioner, should your excellency see fit to do so.

Angeles, July 7th, 1841.

(Signed) S. ARGUILLO.

(Signed) NARCISO BOTELLO, *Secretary.*

MONTEREY, *April 25th*, 1842.

Having seen the petition at the beginning of this expediente, the reports of the person in charge of the establishment of La Purisima, and also of the justice of the peace of Santa Barbara, and of the prefect of the second district, with all other information presented, and deeming it proper, in conformity with the law and regulations respecting the matter, I declare citizen Zeferino Carlon owner in fee of the place known by the name of the Arroyo Grande, bounded by the ranchos of Santa Manuela Guasna, by the Sierra, and the lands of San Luis Obispo.

Make out the proper patent, take note of it in the proper book, and deliver it to the petitioner.

His excellency, the governor, Don Juan B. Alvarado, thus ordered, decreed, and signed, of which I certify.

Filed in office, April 6th, 1852.

GEO. FISHER, *Secretary.*

Document No. 4, attached to deposition of Pablo de la Guerra.

Sello Primero, Seis Pesos.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, para los años de 1842 y 1843.

ALVARADO. ANTONIO M'A OSIO.

[SEAL.]

Juan B. Alvarado, Gobernador Constitucional del Departamento de las Californias:

Por cuanto el ciudadano Zeferino Carlon, ha pretendido para su beneficio personal y el de su familia, el paraje conocido con el nombre de Arroyo Grande, colindante con el rancho de S'ta Manuela y Guasna, con la Sierra, y con el terreno de San Luis Obispo, practicadas previa-

mente las diligencias y averiguaciones concernientes, segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de la nacion Mexicana, he venido en concederle el terreno mencionado, declarandole la propriedad de el por las presentes letras, sugetandose á la aprobacion de la ex'ma Junta Departmental, y á los condiciones siguientes :

1o. Podra cercarlo sin perjudicar las travesias camino y servidumbres, lo disfrutará libre y esclusivamente, destinandolo al uso ó cultivo que mas le acomode, peso dentro de un año fabricará casa, y estará habitada.

2o. Solicitará del juez respectivo que le de la posecion juridica en virtud de este despacho, por el cual se demarcaran los linderos en cuyos limites, pondra las mojoneras correspondientes.

3o. El terreno de que se hace mencion es de un sitio de ganado mayor, segun esplica el diseño que corre en el espediente respetivo. El juez que diere la posecion lo hará mudir conforme á ordinanza, que dando el sobrante que resulta á la nacion para las usos convenientes.

4o. Si contraviniere á estas condiciones perderá su derecho al terreno y será denunciable por otro.

En consecuencia mando que teniendose por firme y valedero este presente titulo, se tome razon de el, en el libro respetivo, y se entre que al interesado para su resguardo, y demas fines.

Dado en Monterey, á veinte y cinco de Abril, de mil ochocientos cuarenta y dos.

MANUEL JIMENO, *Sec'o.*

JUAN B. ALVARADO.

Queda tomada razon de este despacho en el libro de acientas sobre adjudicacion de terrenos valdios a fojas 11.

JIMENO.

El Ex'mo S'r Gobernador ha dispuesto, se tome razon de esta concesion en la prefectura del segunda distrito.

JIMENO.

Queda tomada razon de este titulo en el libro de asientas llevado en la secretaria de la prefectura de este 2o. distrito, á f's 3 va.

Angeles, Junio 15, de 1842.

JOSE R. ARGUILLO, *Srio.*

Sello Cuarto, Una Cuartilla.

Habilitado provicionalmente por la aduana maritima del puerto de Monterey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

ANTONIO MARIA OSIO.

ALVARADO.

El que subscribe secretario del gobierno de este departamento certifico que el diseño que se demerestra á la vuelta es igual al original que

existe en esta secretaria, agregado al espediente del ciudadano Zeferino Carlon.

MANUEL ZIMENO.

Monterey, Abril 29, de 1842.

[*For map see original, page* 17.]

S'or Juez de Paz:

Zeferino Carlon, Mejicano y vecino de esta demarcacion ante V. E. como mas haya lugar en derecho dice, que habiendo obtenido la concecion propia del terreno conocido con el nombre de S'n Roman occurre à V. M., con el fin de que se sirva dar la posecion juridica, conforme esta prevenido en el articulo segundo del titulo de d'ho terreno, que se le espedia el dia veinte y cinco de Abril, de mil ochocientos cuarenta y dos, que debidamente acompaño como igualemente la confirmacion respectiva pa. que todo abre en los efectos desiandos, por tanto a V. E. suplica se sirva ponér me el la posecion ql. solicita de lo ql. recibere merced y justicia, sirviendo admitir esta en papel comun por no haber del sello correspondiente.

SANTA MANUELA, *Junio* 1o, *de* 1842.

En virtud de la antecedente solicitud procedase por mi, el presente juez, Zeferino Carlon, à la medicion senalamiento de linderos y posecion juridica ql. solicita el interesado de este espediente señelandose pa. efectuar el dia 9o de Junio, del corriente año, pa. lo que se sitaron con boleta de compariceda à los colindantes, asi yo el mencionado juez lo decreté, mandé, y firmé, con los testigos de asistencia, con quienes actuo por receptoria a falta de escribano publico, doy fée.

JOAQUIN CARRILLO.

De ass'a: VICENTE BONILLA,
De ass'a: FRANCISCO BRANCH.

En la f'ha presente Zeferino Carlon, se le notifiqué el auto antecedente y de el, el interesado digo lo alle quedada por citado, y lo firmo con los de mi asistencia.

J. CARRILLO.

De ass'a: VICENTE BONILLA,
De ass'a: FRANCO. BRANCH.

En la misma f'ha se libraron las boletas ql. se mandan en el antecedente auto y pa. que conste lo rubrique.

En el sitio de S'n Roman à las nueve dia del mez de Junio, de 1842, en cumplimiento del auto del seis del corriente concurrieron los ciud'do

Franco. Branch, por el rancho de Sta. Manuela; Juan Prais, por el de Guasna, y por la mision de San Luis; Vicente Bonilla, sitados pa. la medicion senalmiento de linderos y posecion nombre por medidores á las ciudanos José Conlon y Damiron Burton, quienes previa la acceptacion y juramento prosidieron al desempeño de su encargo. Asi yo el juez lo decreté, mandé, firmé, con los testigos de asistencia.

J. CARRILLO.

De ass'a: VICENTE BONILLA.
De ass'a: FRANCISCO BRANCHE.

En la f'ha se les notifico á los colindantes el auto que antecede y ententidos dijeron que se hollan y firmaron con migo y los testigos de asistencia.

J. CARILLO,
FRANCO. BRANCH,
JUAN PRIX,
VICENTE BONCHA.

De ass'a: VICENTE BONELLA,
De ass'a: FRANCISCO BRANCHE.

En la misma f'ha y en el espresado parage se les notifico el auto en el que apareson nombrados medidores a los ciudadanos José Carlon y Domiron Burtron, y entendidos dijeron, que aceptan y aceptaban dicho encargo y juraron por Dios nuestro Señor, y la señal de la sta. Cruz, de hacer la fiel y legalmente à todo su leal saber y entender, sin dolo ó fraude contra persona alguna, y por no saber firmarlo hice con los testigos de asistencia.

J. CARRILLO.

De ass'a: VICENTE BONILLA,
De ass'a: FRANCISCO BRANCHE.

En la f'ha se les notifico ò las colindantes ciudadanos Francisco Branch, por el rancho de Sta. Manuela; Juan Prais, por el Guasna, y a Vicente Bonilla, por el establicimiento de San Luis Obispo, el auto y uresvo dijeron que lo oyen y firmaron con migo y los testigos de asistencia.

J. CARRILLO,
FRANCISCO BRANCHE,
JUAN PRICE.

De ass'a: VICENTE BONILLA,
De ass'a: FRANCISCO BRANCH.

En el parage de Sn. Roman siendo como à las tres de la tarde del mismo dia y año. El ciudadano Zeferino Carlon, vecino de Sta. Barbara, acompañando del juez y testigos de ass'a, con animo segun dijo de tomar la verdadera, corporal y real posecion del espresado terreno de Sn. Roman por haberlo pertenicedo en justo titulo que octuba del gobo. politico de esto departamento, con f'ha veinte y cinco de Abril, del corriente año, entre paso por dho. terreno arranco yerbas esparcio

puñados de tierra, rompio ramas de arboles y hiso otras ceremonias de verdadera cesion en señal de lo que dijo toma y que tomaba de dichas tierras, y mandé yo el citado juez ql. desde entonces le tuvieran y reconicieran al mencionado S'r Carlon por verdadero dueño y señor y posedor de ella, de todo lo referido el repitido S'r Carlon, ql. pona memoria en lo veindero y conservacion de sus derechos pr. me el juez le fuese entadido una constancia lo ql. asi fue autorizado siendo testigos de asistencia los S'ors Vicente Bonilla, Fran'co Branch, con quienes actuo en receptoria á falta de escribano publico que no lo hay segun derecho, doy fée.

Continentamente yo el juez mandé trace á mi presencia el cordel con que sehan de medir las tierras y q. los medidores de cincuenta varas y pa. que consta lo firme, con los de mi asistencia.

J. CARRILLO.

De ass'a: VICENTE BONILLA,
De ass'a: FRAN'CO BRANCH.

En la misma f'ha en presencia de mi el referido juez con los espresados medidores tomaron un cordel de micate y con una vara Mejicana de medir tomandolo en la mano medieron cincuenta varas pa. hacer la referida medicion y pa. constancia lo rubrique.

En la misma f'ha y en el referido parage siendo de las nueve de la mañana, yo el presente juez mandé a los medidores se pongan pa. l medicion que ha de hacer del terreno, pa. que el mencionado Zeferino Carlon tome posecion de el y parados en la punta de sienega empesaron la medicion tomando el rumbo del norte, hasta la sierra en donde habiendo llegado dijeron haber siento y dos cordeles y desde el portezuello de la cañada, que ve á sienega rumbo O. E. al N. E., hasta la puesta de las lajas se medieron siento veinte y sinco cordeles des de'ho punto rumbo al S. O. hasta los linderos del S'or Branche donde esta un Aliso, se midieron cincuenta y cinco cordeles, habiendose concluido esta medicion resulta como dos sitios y medio mas ó menos de ganado mayor, y habiendose hecho el senalamiento de linderos en la sierra contigua á Guasna en el portezuelo de la cañada, frente á la sienega en la punta de los bajos y en el lindero del S'or Branch, mandé formason mojoneras y pa. constancia lo firmo, con los testigos de asistencia.

J. CARRILLO.

De ass'a: VICENTE BONILLA,
De ass'a: FRANC. BRANCHE.

En la misma f'ha yo el indicado juez mandé q. en virtud de haberse medido el terreno y haberse hecho el senalimiento de linderos se ponga en posecion juridica, el ciudadano Zeferino Carlon, y notifique se le les ó las colindante, y firmé su auto.

JOAQ'N CARRILLO.

De ass'a: VICENTE BONILLA,
FRANCISCO BRANCH.

En la f'ha se devuelve esta espediente al interesado y para constancia lo rubriqué.

En el puerto de Santa Barbara á las doce dias del mes de Abril, de mil ochocientos cuarenta y tres, ante mi, Joaquin Carrillo, Juez de Paz, proprietario del partido, y los testigos de mi asistencia con quienes, actuo por falta absoluto de escribano publico y nacional; comparecio Zeferino Carlon, vecino de esta puerto á quien doy fé y conozco y dije; que se sepa por esta publica escritura, y que de su bien grado y cierta ciencia vende, concede y por titulo de venta real y de establecidad perpetua, por juro de heredad, transfiere á Don Francisco Branche, vecino del mismo lugar que esta presente para si y los suyos acceptante, el terreno conocido con el nombre de Arroyo Grande, cito en la jurisdiction de esto puerto, colindante con los ranchos de Sta. Manuela y Guasna, con la sierra y con tierras de San Luis Obispo, con todos sus entrados, salidas viejas usos, servidumbres y lo demas que á dicho terreno pertenece de hecho y derecho, libre de censo cargo ó hipoteco, que posée en propiedad por concesion hecho á su favor por el C. Don Juan Bautisto Alvarado, gobernador constitùcional del departamento en fecha 5 de Abril, de 1842, y tenencia judicial que tiene de nueve de Junio, del mismo año de mil ochocientos cuarenta y dos, por precio de seis cientos pesos moneda corriente francas para el vendedor.

Pues en este respeto hasido apieciado dicho terreno por partes de consentimientes de ambos portes en la espresado quantia de seis cientos pesos los que otorga haber recibido de dho. Don Francisco Branch, en reces y en efectos á justos precios de buena calidad y va, lo de que le da por entregado y contento, (de que yo el juez doy fe,) y desde hoy en adelante se desapodra, desiste y aparta de la accion propiedad señorio titulo, vos recurso y cualquera derecho que en dicho terreno le pertenesca y pueda pertenecer pues todo lo cede, renuncia traspasa en dicho comprador y quien le sucidiere, para que como propio suyo lo posea goze cambie enagene, ó revende, á su voluntad como dueno absoluto sin dependencia alguna reservandose inaniente para si solo y mientras viva con esclusion de sus herederos ó sucesores el derecho de permanacer en el terreno que ha vendido con todo sus bienes semovientes sin perjuicio de que el comprador en vista del vendedor pueda tambien introducir en dicho terreno los bienes de campo de pertenencia, obligandose ambos contratantes como se obligan a guardar la mas prefecta armonia en el uso comun de dicho terreno, y dicho Zeferino Carlon da a Don Francisco Branche el poder que se requiere, constituyando en su lugar mismo hecho y causa propria para que por su autoridad judicialmente en dicho terreno vendido tome aprehenda la posecion y tenencia de el y para su camplimiento ambos contratantes obligan sus bienes habidos y por haber, y dan poder á la justicia de la nacion y en especial á las de este puerto á cuya jurisdicion le sometera para que las apremien, y lo firmo con migo dicho juez y los de me asistencia, Don Francisco Branch, haciendo una cruz Zeferino Carlon, por no saber firma, fueron testigos instrumentales Don Francisco de la Guer-

ra, Don Antonio Rodriguez, y Don Juan Camarillo, vecinos de esto puerto, de que doy fée una cruz.

FRANCISCO BRANCH,
JOAQUIN CARRILLO.

De as'a: JOSE MA. COVARRUBIAS,
De as'a: JOSE CARRILLO.

Joaquin Carrillo, juez de paz, proprietario de esto puerto, certifico que la copia que antecede es testimonio fiel y legalmente sacado á la letra del original, á que me remito y quedo archivado en el protocolo de instrumentos publicos del juzgado de mi cargo, y para que conste y ser los testigos de mi asistencia, en papel comun por no haber del sellado que corresponde.

JOAQUIN CARRILLO.

De a'sa: JOSE MA. COVARRUBIAS,
De a'sa: JOAQUIN DE LA GUERRA.

Santa Barbara, Abril doce, de mil ochocientos cuarenta y tres.

Filed in office Sept. 9th, 1852.

GEO. FISHER, *Sec'y.*

Translation of Title.

First stamp, Six dollars.

Provisionally authorized by the maritime custom-house of Monterey, for the years 1842 and 1843.

(Signed) ANTONIO MARIA OSIO,
(Signed) ALVARADO.

[Maritime Custom-house of Monterey.]

John B. Alvarado, constitutional governor of the department of the Californias:

Whereas, citizen Zeferino Carlon has, for his own personal benefit and that of his family, asked for the place known by the name of Arroyo Grande, bounded by the rancho of Santa Manuela and Guasna, by the Sierra and by the lands of San Luis Obispo, the proper measures and examinations having previously been made as required by the laws and regulations, using the faculties which are conferred upon me in the name of the Mexican nation, I have granted him the above-mentioned land, declaring to him the ownership of it by these presents, subject to the approval of the most excellent departmental junta, and under the following conditions:

1st. He may enclose it without prejudice to the crossings, roads, and servitudes, and enjoy it freely and exclusively, making such use and cultivation of it as he may see fit, but, within one year, he shall build a house and it shall be inhabited.

2d. He shall ask the magistrate of the place to give him juridical possession of it in virtue of this order, by whom the boundaries shall be marked out; and he shall place on them, besides the landmarks, some fruit or forest trees of a useful character.

3d. The land here mentioned is one sitio de ganado mayor, (one square league for grazing cattle,) as set forth in the map attached to the respective espediente. The magistrate who gives the possession will have it measured according to the ordinance, leaving all that may remain over and above to the nation for its convenient uses.

4th. If he shall contravene these conditions, he shall lose his right to the land, and it may be denounced by another. In consequence, I order that the present title be held as firm and valid, that note be taken of it in the proper book, and that it be delivered to the party interested, for his security and other purposes.

Given in Monterey, this twenty-fifth day of April, one thousand eight hundred and forty-two.

(Signed) JUAN B. ALVARADO,
(Signed) MANUEL JIMENO, *Sec'ry.*

Note has been taken of this document in the book of entries, of grants of vacant lands, at page 11.

(Signed) JIMENO.

Filed in office, April 6th, 1842.

GEO. FISHER, *Sec'ry.*

Translation of Juridical Possession.

To the Justice of the Peace:

Zeferino Carlon, a Mexican, and citizen of this demarcation, before you comes, and in due form representation makes, that having obtained the grant in fee of the land known by the name of San Roman, he comes to you with the request that you will give him juridical possession as directed in the second article of the title of said land, which was granted him the 25th day of April, one thousand eight hundred and forty-two, which is duly sent herewith, as the also respective confirmation, in order that they may serve all the desired purposes.

Wherefore, I pray your honor to put me in the possession, which I ask, by which I will receive grace and justice. And please to receive this on common paper, there being none of the proper stamp.

Santa Manuela, June 1st, 1842.

(Signed) ZEFERINO CARLON.

NIPOMO, *June 6th*, 1842.

In virtue of the preceding petition, I, the present magistrate, will proceed to measure and mark out the boundaries and give the judicial possession asked for by the petitioner in this espediente, appointing for this purpose the 9th day of June of the current year, for which object the colindantes will be cited to appear by written notice. Thus I, the aforesaid magistrate, decreed, ordered and signed, with the assisting witnesses, with whom, by virtue of my office, I act; there being no notary public, I certify.

(Signed) JOAQUIN CARRILLO.

Assisting witnesses:

(Signed) VICENTE BONILLA,
(Signed) FRANCISCO BRANCH.

of San Luis Obispo, and the acknowledged notice, and signed with me and the assisting witnesses.

(Signed) J. CARRILLO.

Assisting witnesses:

(Signed) VICENTE BONILLA,

(Signed) FRANCISCO BRANCH.

(Signed) JUAN PRICE.

In the place of San Roman, it being about 3 o'clock in the afternoon of the same day, month, and year, citizen Zeferino Carlon, and inhabitant of Santa Barbara, accompanied by the magistrate and witnesses, with the intention, as he said, of taking true, corporeal and real possession of the said land of San Roman by right of just title, which he received from the political governor of this department on the twenty-fifth day of April of the current year, entered upon said land, pulled up grass, scattered handsful of earth, broke branches of trees, and performed other acts of true possession, by which sign he said he received and did receive said lands; and I, the said magistrate, ordered that thenceforth, he, the said Señor Carlon, should be considered and recognised as the true owner, lord, and possessor of it. And the said Señor Carlon asked that all the foregoing proceedings might be officially made out by me, the magistrate, as testimony for the future, and for the preservation of his rights, which was authorized; the assisting witnesses being Vicente Bonilla and Francisco Branch, with whom I officially act; there being no notary public, as has been said, I certify.

(Signed) JOAQUIN CARRILLO.

Assisting witnesses:

(Signed) VICENTE BONILLA,

(Signed) FRANCISCO BRANCH.

On the same day, this espediente is given to the person interested in testimony, of which I sign with my rubric.

(Rubric of J. Carrillo.)

Filed in office, April 6th, 1852.

GEO. FISHER, *Secretary.*

In the port of Santa Barbara, the twelfth day of April, one thousand eight hundred and forty-three, before me, Joaquin Carrillo, justice of the peace of the partido, and my assisting witnesses, with whom I act, there being no national and public notary, appeared Zeferino Carlon, an inhabitant of this port, who I certify is known to me, and declared: Let all men know by these presents, that of his own free will and intent, he sells, and by title of real sale and perpetual alienation by right of inheritance, transfers to Don Francisco Branch, and inhabitant of the same place, who is also present, and for himself and for his representatives, accepts the land known by the name of Arroyo Grande, situated in the jurisdiction of this port, bounded by the ranchos of Santa Manuela and Guasna, by the Sierra, and by lands of San Luis Obispo,

with all its rights, hereditaments, advantages, privileges, and appurtenances, whether of act or right, free from tax, charge, or encumbrance, which he owns in fee by grant made in his favor by Señor Don Juan Bautista Alvarado, constitutional governor of the department, on the twenty-fifth day of April, one thousand eight hundred and forty-two, and juridical tenure which he holds from the 9th of June of the same year 1842, for the full sum of six hundred dollars current money of the vendee. Since, for this end, the said land has been appraised at the said sum of six hundred dollars by an adept, agreed upon by both parties, which sum the vendor acknowledges to have received from the said Don Francisco Branch in cattle and goods at a fair price and of good quality, and did so receive, (which I, the magistrate, certify were delivered and to his satisfaction,) and henceforth and forever, he releases, discharges, retires, and withdraws from the control, ownership, freehold, title, name, recourse, and whatever other right belongs or may belong to him in said land, all of which he grants, renounces, and transfers to the purchaser who succeeds him, so that he may possess, enjoy, exchange, alienate, or sell it at his will as his own property and as absolute owner without dependence upon any one, the vendee only reserving to himself alone and during his life, with the exclusion of his heirs or successors, the right of remaining on the land with all his self-moving property, with the understanding that the purchaser may also during the lifetime of the vendor introduce upon said land his own animals of the field; the two contracting parties binding themselves, as they are bound, to preserve the most perfect harmony in the common use of said land. And the Zeferino Carlon gives to Don Francisco Branch full and ample power, constituting him in his place, act, and stead, in order that by his authority or juridically in said land sold, he may take and hold the possession and ownership of it. And for the full performance of these presents, both of the contracting parties renounce the laws in their favor, and bind the property which they now have or may acquire, and give power to the courts of the nation, and particularly to those of this port to whose jurisdiction they submit, for the enforcement thereof.

And Francisco Branch signed it with me, the magistrate, and my assisting witnesses, Zeferino Carlon making his cross, as he did not know how to write.

The witnesses to this instrument were Don Francisco de la Guerra, Don Antonio Rodriguez, and Don Juan Camarello, inhabitants of this port, of which I certify.

ZEFERINO CARLON'S cross,
(Signed) FRANCISCO BRANCH,
(Signed) JOAQUIN CARRILLO.

Assisting witnesses:

(Signed) JOSE MARIA COVARRUBIAS,
(Signed) JOSE CARRILLO.

Joaquin Carrillo, Justice of the Peace of this Port.

I certify that the above copy is faithfully and legally copied from the letter of the original which was deposited with me, and placed in the protocols of public instruments in the office under my charge. And, therefore, and for the purposes which it may serve, I give the present and sign it with my assisting witnesses on common paper, there being none of the proper stamp.

Santa Barbara, April 12th, 1843.

(Signed) JOAQUIN CARRILLO.

Assisting witnesses:

(Signed) JOAQUIN DE LA GUERRA.

(Signed) JOSE MARIA COVARRUBIAS.

Filed in Office, April 6th, 1852.

GEO. FISHER, *Secretary.*

FRANCISCO BRANCH
vs.
THE UNITED STATES.

For the place called Arroyo Grande or San Ramon, in San Luis Obispo county, containing one square league of land.

The land claimed was granted by governor Alvarado to Zeferino Carlon, on the 25th day of April, 1842, as appears by the original title-paper which is given in evidence.

The grantee was required to obtain juridical possession of the land, with a proper demarcation of the boundaries, which, as is shown by the usual testimonial of the official act, was done on the 9th day of June, 1842. The testimony of Nicolas A. Den shows that the premises were occupied since the year 1842 by Francisco Branch *by Francisco Branch*, who has lived on the land, had a house upon it, with his cattle, and cultivated a portion of the premises. It is not stated in what capacity Branch occupied the land during the year 1843, but as Carlon was still the owner the occupancy must be understood to be under him, and the improvements to have been made for him. The testimony is not explicit as to the time when the house was built, and the cultivation commenced; but the witness states the occupancy to have continued since 1842, the year of the grant; and as he speaks of the building of the house, and the cultivation of the land in connection with it, the latter must be regarding as indicating the character of the occupancy, and as commensurate with it. The effect of the testimony thus considered is to show a substantial compliance in this respect with the condition of the grant, and of the law, and to secure an equitable right in Carlon to the premises.

The present claimant alleges title in himself by virtue of a deed of conveyance from said Carlon to him, executed before complete authority on the 12th day of April, 1843. This conveyance appears to have been made with the requisite formalities under the laws then in

force, and is proved before the commission by the usual documentary evidence; under it the claimant is entitled to a confirmation of the premises to himself.

Confirmed.

Filed in office, Jan'y 17th, 1854.

GEO. FISHER, *Sec'y.*

FRANCISCO BRANCH
vs.
THE UNITED STATES.

In this case, in hearing the proofs and allegations, it is adjudged by the commission that the said claim of the petitioner is valid, and it is hereby decreed that the same be confirmed. The land of which the confirmation is hereby made is the same known by the name of Arroyo Grande, or San Ramon, situated in San Luis Obispo county, and occupied by the said claimant, and bounded and described as follows, to wit: commencing at the point of Cienega, and running thence in a northerly direction five thousand five hundred varas to the Sierra; thence from the crossing of the cañada that runs to the Cienega, west-northwest, to the point of the Lujas, distant six thousand two hundred and fifty varas; thence southwest to an aliso tree, the boundary (in 1842) of Senior Branch, two thousand seven hundred and fifty varas; and thence to the place of beginning; boundary marks for said line having been established in the sierra contiguous to Guasna, in the crossing of the cañada, opposite the Cienega, in the point of the Lujas, and in the boundary of Senior Branch; said premises containing one square league of land, more or less, agreeably to the grant of the same to Zeferino Carlon, and the juridical measurement thereof, and a map attached to the traced copy of the expediente from the archives, all of which are on file in this case, and to which reference is to be had.

ALPHEUS FELCH,
THOMPSON CAMPBELL,
R. AUG. THOMPSON,
Commissioners.

Filed in office, Jan'y 17th, 1854.

GEO. FISHER, *Sec'y.*

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the Board of Commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing thirty-four pages, numbered from 1 to 34, both inclusive, to contain a true, correct and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon which the same is founded, on file in this office in case No. 162, on the docket of the said board, wherein Francisco Branch is the claimant against the United States for the place known by the name of "Arroyo Grande."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, [SEAL.] this twelfth day of September, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

(Signed) GEO. FISHER, *Sec'y.*

UNITED STATES DISTRICT COURT,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, do hereby certify that the foregoing thirty-four pages, numbered from 1 to 34, both inclusive, contain a full, true and correct copy of transcript No. 162, filed in this office, wherein Francisco Branch is appellee and the United States are appellants, for "Arroyo Grande."

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Los Angeles, California, [SEAL.] this nineteenth day of January, A. D. 1850, and of the independence of the United States of America the eightieth.

C. E. CARR, *Cl'k.*

DISTRICT COURT UNITED STATES,
Southern District of California.

CLERK'S OFFICE, LOS ANGELES COUNTY.

FRANCISCO BRANCH, appellee, ads. THE UNITED STATES, appellants. } Docket No. 75. Transcript No. 162.

Be it remembered, that on the 16th day of September, A. D. 1854, in the district court of the United States for the southern district of California, the following proceedings were had, to wit:

A duly certified transcript of the proceedings and decision of the commission to ascertain and settle the private land claims in the State of California, when sitting as a board, in the case wherein Francisco Branch is the claimant against the United States, for the place named "Arroyo Grande," was received and filed, and docketed with No. 75, and is as follows, to wit:

(Vide page 1.)

LOS ANGELES, *Jan'y 10th,* 1855.

In case No. 75—Francisco Branch, for "Arroyo Grande"—the notice of appeal from U. S. Attorney General was filed.

(Vide page 3.)

LOS ANGELES, *Aug. 13th,* 1855.

In same case, the petition of the United States for review was filed.

(Vide page 4.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

LOS ANGELES, *Oct. 15th*, 1855.

In same case, the deposition of H. W. Halleck, a witness for appellee, was taken and filed.

(Vide page 12.)

LOS ANGELES, *Oct. 15th*, 1855.

In same case, the "carta de naturaliza" of appellee, with a translation thereof, was filed.

(Vide pages 13 and 14.)

LOS ANGELES, *Oct. 16th*, 1855.

In same case, the answer of appellee was filed.

(Vide page 15.)

LOS ANGELES, *Oct. 16th*, 1855.

In same case, the following stipulation was filed.

(Vide page 16.)

LOS ANGELES, *Oct. 20th*, 1855.

In same case, the opinion of the court confirming the claim was delivered, and the following decree entered.

(Vide page 17.)

LOS ANGELES, *Oct. 25th*, 1855.

In same case, the following order for appeal, on motion of P. Ord, U. S. attorney, was filed.

(Vide page 18.)

Notice of Appeal.

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
WASHINGTON, *30th November*, 1855.

FRANCISCO BRANCH
vs.
THE UNITED STATES. } No. 162.

You will please take notice, that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of August, 1854, the appeal in the district court of the United States for the southern district of California will be prosecuted by the United States.

C. CUSHING,
Attorney General.

Filed in office, Jan'y 10th, 1855.

C. E. CARR, *Cl'k.*

Petition for Review.

In the District Court of the United States for the southern district of California.

Los Angeles, *State of California.*

Francisco Branch ads. The United States. } No. 75, (Transcript No. 162.)

To the honorable Isaac S. K. Ogier, judge of the District Court of the United States for the southern district of California.

The petition of Pacificus Ord, (of Los Angeles county,) attorney of the United States for the southern district of California, who petitions in this behalf for the United States, and being present here in court in his proper person, in the name and behalf of the United States, represents as follows:

That heretofore, to wit, on or about the 6th day of April, A. D. 1852, Francisco Branch presented a petition to the commissioners to ascertain and settle the private land claims in the State of California, claiming the tract of land called Arroyo Grande, in the county of San Luis Obispo, in the words and figures following, viz:

"That in the month of April, A. D. 1841, Zeferino Carlon applied through the proper authorities for the tract of land called 'Arroyo Grande;' and that on the 25th day of April, A. D. 1842, Juan B. Alvarado, governor of California, by virtue of authority in him vested, granted to the said Zeferino Carlon the aforesaid tract of land called Arroyo Grande or San Ramon, situate in the then jurisdiction of Santa Barbara, and now the county of San Luis Obispo, containing one square league, with the boundaries described in the grant and corresponding map; all of which is shown on the espediente, a certified copy of which is submitted herewith marked 'A,' with a translation marked 'B;' and he also submits herewith a copy of the formal title marked 'C,' with a translation marked 'D.' And the petitioner further shows, that on the 6th day of June, A. D. 1842, the said tract of land was surveyed, and the juridical possession of it given to the said Zeferino Carlon by the proper authority, a copy of which act of possession is submitted herewith marked 'E,' with a translation marked 'F.' That on the 2d day of April, A. D. 1843, the said Zeferino Carlon sold and conveyed the said tract of land to the petitioner, a copy of which conveyance is submitted herewith marked 'G,' with a translation marked 'H.'

"That since the year 1841, the said Carlon and the petitioner have been, and the petitioner now is, in the quiet, peaceful, and undisputed possession and occupation of the said tract of land; that he knows of no conflicting claim; that the said land has not been surveyed by the Surveyor General of the United States, but that it was surveyed and its boundaries marked out at the time of the giving juridical possession of it; that he relies for confirmation of title upon the original papers,

copies of which are submitted herewith, upon the records and minutes in the archives now in charge of the surveyor general, and upon such other and further proofs as he may be advised are necessary. Wherefore he prays the commissioners to confirm to him the said tract of land."

Your petitioner further represents, that thereafter, to wit, on the 17th day of January, A. D. 1854, the said commissioners confirmed by final decision the said claim of the said Francisco Branch, in the words and figures following, to wit:

"In this case, on hearing the proofs and allegations, it is adjudged by the commissioners that the said claim of the petitioner is valid, and it is hereby decreed that the same be confirmed. The land of which confirmation is hereby made is the same known by the name of Arroyo Grande or San Ramon, situate in San Luis Obispo county, and occupied by the said claimant, and bounded and described as follows, to wit: Commencing at the point of Cienega, and running thence in a northerly direction five thousand and five hundred varas to the Sierra; thence from the crossing of the cañada that runs to the Cienega, west-northwest to the point of the Lujas, distant six thousand two hundred and fifty varas; thence southwest to an aliso tree, the boundary (in 1842) Senior Branch, two thousand seven hundred and fifty varas; and thence to the place of beginning; boundary marks for said line having been established in the Sierra contiguous to Guasna, in the crossing of the cañada opposite the Cienega, in the point of the Lujas, and in the boundary of Senior Branch, said premises containing one square league of land, more or less, agreeably to the grant of the same to Zeferino Carlon, and the juridical measurement thereof, and a map attached to the traced copy of the espediente from the archives; all of which are on file in this case, and to which reference is to be had.

"ALPHEUS FELCH,
"THOMPSON CAMPBELL,
"R. AUGT. THOMPSON,
"*Commissioners.*"

That, thereafter, to wit, on the 16th day of September, A. D. 1854, a duly certified transcript of the said decree and proceedings, and the papers and evidence on which it was founded in said cause, was filed in the office of the clerk of the district court of the United States for the southern district of California, and marked No. 75, (transcript No. 162,) reference to which it is prayed may be had and made a part of this petition.

That on the 30th day of August, A. D. 1854, the honorable Caleb Cushing, Attorney General of the United States, received a duly certified duplicate of said transcript of said final decree and proceedings of said commissioners in said cause, (No. 162,) and the papers and evidence on which said decree was founded.

That thereafter, to wit, on the 10th day of January, A. D. 1855, the

said Attorney General of the United States filed, or caused to be filed, on behalf of the United States, a notice with the said clerk of said district court for the southern district of California, that the appeal in said cause of Francisco Branch vs. The United States, from the decision of said commissioners to ascertain and settle the private land claims in the State of California, in the district court of the United States for the southern district of California, would be prosecuted by the United States.

Your petitioner further represents, that the said land claimed as aforesaid is within the jurisdiction of this honorable court.

And your petitioner further represents and insists, that the said decree of said commissioners is erroneous and ought to be reviewed, reversed, and set aside, for many errors and imperfections of law and evidence apparent in said certified transcript of said cause, now on appeal from said commissioners to this honorable court.

And your petitioner further represents, that the said claim is invalid, and the said decree erroneous on the following grounds:

I. And the said attorney denies all and singular each and every allegation in the said petition of said claimant to said commissioners of said date. And he further denies that any grant for said land was ever made as alleged in said petition. And he denies further, that the said claimant has shown any or sufficient evidence of the validity of the said claim.

II. That the said alleged grant of Juan B. Alvarado was made in violation of the 4th article of the Colonization law of Mexico of the 18th of August, A. D. 1824, in this, that the land granted as alleged by claimant, was and is within ten leagues of the sea-coast; and there is no evidence shown by claimant, that the supreme general executive power of Mexico previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the sea-coast; and it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

III. That at the date of the said alleged grant, the said land claimed as aforesaid was occupied by, and in the possession of the mission of the Territory of Upper California, and it was held and occupied particularly by the mission of Purissima or San Luis Obispo, and could not, therefore, be colonized.

IV. That the said alleged grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico of the 21st of November, A. D. 1828.

V. That the alleged grant of land to said claimant by Juan B. Alvarado, of the date of 25th April, 1842, is in its description of the land vague and indefinite; and the map of the land, referred to therein, is also vague and indefinite.

VI. That the said alleged grant was made subject to the approval of the departmental assembly; and there is no evidence that it was ever approved by said junta or assembly of California, or the supreme gov-

ernment of Mexico; and it is denied that it was ever approved by the said junta or assembly, or the said supreme government.

VII. That there is no evidence of the genuineness of the document or writing purporting to be a petition of Zeferino Carlon to the justice of the peace, asking for the juridical possession of land, dated June 1st, 1842.

VIII. That the alleged juridical survey and possession of the said land, by Joaquin Carillo, magistrate of San Luis Obispo, dated June 9th, 1842, was unlawful and void; for the reason, that at the time of the said alleged juridical acts, the said alleged grant of said Alvarado had not been approved by the departmental junta or assembly of California, or the supreme government of Mexico.

IX. That the said alleged juridical acts of the survey and possession of said land by said Joaquin Carrillo were not made according to the said alleged grant, and the map referred to therein, nor according to the ordinance or law; and the said pretended acts are vague, indefinite, and void for uncertainty.

That the said pretended acts are not executed upon stamped paper, and no reason is assigned therefor.

X. That there is no evidence that the said Joaquin Carrillo was a magistrate of San Luis Obispo on the said 9th of June, 1842, and had then lawful authority to perform said alleged juridical acts of survey and possession of the said land, and it is denied that he was a magistrate of said place, at said time, and had then lawful authority to perform said acts.

XI. That there is no evidence that the said alleged Zeferino Carlon performed the conditions of the said alleged grant; and that he built a house upon the said tract of land and occupied it within one year from the date of the said alleged grant, and that he cultivated the land; and it is denied that the said Carlon performed the conditions of the said alleged grant, and that he built a house upon the said land, and occupied it within one year from the date of the said alleged grant, and that he cultivated the land.

XII. That at the date of the alleged purchase of said land by said claimant, April 12th, 1843, the said alleged grant not having been approved by the said departmental junta or assembly of California, or the said supreme government, and then the said Zeferino Carlon not having performed the conditions of said grant, he had no lawful right or title in the said tract of land which he could lawfully alienate.

XIII. That at the date of the said alleged purchase of said tract of land by said claimant he was an alien, and not a native or naturalized citizen of Mexico, and could not, therefore, then lawfully acquire by purchase, as alleged, and hold the said tract of land.

XIV. That there is no sufficient evidence that the said alleged original grantee, or the said claimant, ever built a house upon the said land and occupied it, and that he cultivated the said land; and it is denied that he ever built a house upon the said land and occupied it, and that he cultivated the said land.

XV. That the said claimant shows no definitive grant or title for the said tract of land, claimed by him as aforesaid; and no sufficient proof having been made by said claimant of the allegations of his petition, or in support of his said claim, filed as aforesaid, no decree ought to have been made or grounded thereon; but the said petition ought to have been dismissed, and said claim rejected by said commissioners, upon the grounds aforesaid.

And the said claimant having no valid right or title, derived from the Spanish or Mexican government, to the said land, claimed by him as aforesaid; the lawful right or title in and to the said land was acquired by, and it now belongs to, the United States, by virtue of the treaty of peace, friendship, limits and settlement with the Republic of Mexico, dated at the city of Gaudaloupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the act of Congress entitled "An act to ascertain and settle the private land claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said Francisco Branch may be served with a copy of this petition; and that this honorable court will review the said decision, or final decree of confirmation of said commissioners to ascertain and settle the private land claims in the State of California, and decide on the validity of the said claim of said Francisco Branch for said land, claimed and confirmed as aforesaid; and that the same may be decreed invalid; and all such other orders, judgments, or decrees as may be just, with costs and general relief.

P. ORD, *Attorney of the United States for the southern district of California.*

Filed Aug't 13th, 1855.

C. E. CARR, *Cl'k.*

Deposition of H. W. Halleck.

THE UNITED STATES, applt., }
vs.
FRANCISCO BRANCH, app'lee. }

H. W. Halleck, a witness for appellee, was sworn, and testified as follows:

Ques'n. What is your name, age, and place of residence?

Answ'r. My name is H. W. Halleck, my age thirty-nine, residence San Francisco.

Ques'n. Do you know the handwriting of Juan B. Alvarado, and the handwriting of Manuel Jimeno? if so, look at the paper marked "No. 1," hereto annexed, and state whether the signatures, as they appear thereon, are genuine.

Ans'r. I know the signatures of the persons named, having often

seen them write and sign their names. The signatures to this paper are, I have no doubt, genuine.

(Signed) H. W. HALLECK.

Sworn to and subscribed before me this 15th day of October, A. D. 1855.

(Signed) C. E. CARR, *Clerk.*

I, Charles E. Carr, clerk of the district court of the U. S. for the south'n dist. of Calif'a, hereby certify the above to be a true and correct copy of the deposition of H. W. Halleck, of file in this case in my office.

Witness my hand and seal of said court at the city of Los Angeles, this 16th day of October, A. D. 1855.

C. E. CARR, *Clerk*,
By JOHN W. ROSS, *Dep.*

Filed Oct. 15th, 1855.

C. E. CARR, *Clerk.*

Carta de Naturaliza.

Juan B. Alvarado, Gobernador constitucional del departamiento de las Californias.

Habiendo Dn. Francisco Branch, procedento de las Estadas Unidos de Norte America, cumplido con las condiciones y requicitos que previene, la ley de 14 de Abril, de 1828, del Congreso Nacional [SEAL.] que arreyla el modo que debe concederse la carta de naturaliza a las estrangeros declaro al referido Dn. Francisco Branch por las presentes naturalizado en la Republica Mexicana, en virtud de la autoridad que por la misma ley se me confiere.

Monterey, 31st de Deciembre, de 1839.

JUAN B. ALVARADO,
MAN'L JIMENO, *S'rio del despacho.*

Reg'do a $11.

I, Charles E. Carr, clerk of the district court of the United States for the southern district of California, hereby certify the above to be a true and correct copy of the papers of naturalization of Francisco Branch, as of file in my office.

Witness my hand and the seal of said court, at office, in the city of Los Angeles, this 17th day of Octo., A. D. 1855.

C. E. CARR, *Cl'k*,
By J. W. ROSS, *Dep.*

Filed Octo. 15th, 1855.

C. E. CARR, *Cl'k.*

Translation of document marked No. 1, *and annexed to the deposition of H. W. Halleck.*

Juan B. Alvarado, constitutional governor of the Californias:

Francisco Branch, an emigrant from the United States of North

America, having complied with the conditions and requisitions prescribed by the law of the National Congress, passed on the [SEAL.] 14th day of April, 1828, which regulates the mode of granting letters of naturalization to strangers, I, by virtue of the authority vested in me by the said law, do by these presents declare said Francisco Branch a naturalized citizen of the Mexican Republic.

Monterey, 31st of December, 1839.

JUAN B. ALVARADO,
MAN'L JIMENO,
Secretary of the dispatches.

Registered for $11.

I, Charles E. Carr, clerk of the district court of the United States for the south'n dist. of Cala., hereby certify the above and foregoing translation of the naturalization papers of Francisco Branch to be a true and correct copy of the same as of file in my office.

In witness whereof I have hereto set my hand and the seal of said court, at the city of Los Angeles, this 17th day of October, A. D. 1855.

C. E. CARR, *Cl'k*,
By JOHN W. ROSS, *Dep.*

Filed October 15th, 1855.

C. E. CARR, *Clerk.*

Answer.

In the District Court of the United States for the southern district of California.

FRANCISCO BRANCH, appellee, ads. THE UNITED STATES, appellant. } No. 75—Arroyo Grande.

The appellee, Francisco Branch, for answer to the petition of the appellant in this case, says and avers, that he, the appellee, has a good and valid title to the lands claimed by him in this case, viz: the rancho known as Arroyo Grande, in the county of San Luis Obispo; he therefore prays, that the decision of the board of land commissioners to ascertain and settle private land claims in the State of California, confirming the appellee said title, may be affirmed.

A. F. HINCHMAN,
Attorney for Appellee.

Filed Oct. 16th, 1855.

C. E. CARR, *Clk.*
By J. W. ROSS, *Dep'ty.*

Stipulation.

In the United States District Court for the southern district of California—County of Los Angeles.

FRANCISCO BRANCH, app'ee, ads. THE UNITED STATES, app'lts. } No. 75—Arroyo Grande.

It is hereby stipulated, on the part of the appellant, by P. Ord,

district attorney of the United States for the southern district of California, and on the part of the appellee, by his attorney, A. F. Hinchman, that so much of the transcript in this case, sent by the board of land commissioners to the U. S. district court, as is contained on pages 14, 15, 16, 17, 18, 19, 20, and 21, of said transcript, is admitted to be a true copy of the documents referred to by Pablo de la Guerra in his deposition in this case, before the board of land commissioners, as documents marked No. 4 and annexed to his deposition.

P. ORD,
U. S. dist. Atty.
A. F. HINCHMAN,
Atty. for App'ee.

Los Angeles, October 16, 1855.

Filed Oct. 16th, 1855.

C. E. CARR, *Clk.*

Decree.

THE UNITED STATES, appellants,
vs.
FRANCISCO BRANCH, appellee.
} No. 75—"Arroyo Grande."

DISTRICT COURT OF THE UNITED STATES,
Southern district of California.

This cause coming on to be heard at a special term of this court, on an appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California, under the act of Congress approved March 3d, 1851, upon the transcript of the decision and proceedings, and the papers and evidence on which said decision was founded, and it appearing that said transcript has been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged, and decreed that the decision of the said commissioners be affirmed; and that the claim of the said Francisco Branch to the land described in the grant in this case is a good and valid claim, and the same is hereby confirmed to the extent of one square league, provided that the said quantity of one square league be contained within the limits called for in said grant and map to which it refers; but if there be less than said named quantity, then the claim of said appellee to said less quantity is hereby confirmed.

ISAAC S. K. OGIER,
United States district judge for the southern district of California.

Order for Appeal.

In the District Court of the United States for the southern district of California.—Special Term, Sept. 1855.

FRANCISCO BRANCH
ads.
THE UNITED STATES.
} No. 75—Transcript No. 162.

On appeal from U. S. Land Commissioners.

On motion of P. Ord, attorney of the United States for the southern